



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0257]

RIN 1625-AA09

Drawbridge Operation Regulation; Hudson River, Troy and Green Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the drawbridge operation regulations that govern the operation of the highway bridge across the Hudson River, mile 152.7, between Troy and Green Island, New York. The owner of the bridge, New York State Department of Transportation, requested that a twenty four hour advance notice be given for bridge openings. In addition, we removed the regulations for the 112th Street Bridge, mile 155.4, between Troy and Cohoes which has been converted to a fixed bridge. It is expected that this change to the regulations will provide relief to the bridge owner from crewing the bridge while continuing to meet the reasonable needs of navigation as well as remove obsolete regulations from the Code of Federal Regulations.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER

DATE OF PUBLICATION IN THE FEDERAL REGISTER.] .

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0257. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type in the docket number in the "Search." Box and click "SEARCH." Click Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Program, telephone 212-668-7165, e-mail joe.m.arca@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

On May 24, 2013, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulations; Hudson River, Troy and Green Island, NY," in the Federal Register (78 FR 31454). We received no comments on the proposed rule. No public meeting was requested, and

none was held.

B. Basis and Purpose

The highway bridge, mile 152.7, across the Hudson River, between Troy and Green Island, New York, has a vertical clearance in the closed position of 29 feet at mean high water and 34 feet at mean low water. The waterway users are seasonal recreational vessels, several tour boats and a U.S. Army Corps of Engineers vessel.

The existing drawbridge operation regulations are listed at 33 CFR 117.791(e), which require the bridge to operate as follows: From April 1 through December 15, the draw shall open on signal from 9 a.m. to 4 p.m.; except that, the draw need not open from 6 p.m. to 7 a.m., unless notice is given before 4:30 p.m. of the time the vessel is expected to pass, and need not open from 7 a.m., to 9 a.m., and 4 p.m. to 6 p.m. From December 16 through March 31, the draw need not open.

The Coast Guard received a request from the owner of the bridge, New York State Department of Transportation, to change the drawbridge operation regulations. The owner of the bridge proposes to open the bridge as follows: From April 1 through December 15, the draw shall open on signal after at least a twenty four hour notice is given and from December 16 through March 31, the draw need not open for the passage of vessel traffic.

The bridge opens approximately 40 times a year on average between April and December and there are no openings in the winter months when the waterway is normally frozen.

As a result of the above information the Coast Guard believes it is reasonable for the bridge owner to operate the bridge after a twenty four hour advance notice from April 1 through December 15.

In addition, the Coast Guard removed the drawbridge operation regulations for the 112th Street Bridge between Troy and Cohoes, 33 CFR 117.791(f), which was converted to a fixed bridge in 1997.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The

Office of Management and Budget has not reviewed it under that Order. This conclusion is based on the fact that this final rule is not a significant regulatory action because the bridge will continue to open for the passage of all vessel traffic, April 1 through December 15, after a twenty four hour notice is given.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small because the bridge will continue to open for all vessel traffic after at least a 24 hour advance notice is given.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule, if the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning

its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibility among the various levels of government.. We have analyzed this rule under that Order and have determined that it does not have implications for

federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive order 13211, Actions Concerns Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This final rule simply promulgates

the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 117.791 by removing paragraph (f) and revising paragraph (e) to read as follows:

§ 117.791 Hudson River.

* * * * *

(e) The draw of the highway bridge, mile 152.7, between Troy and Green Island, operates as follows:

(1) From April 1 through December 15 the draw shall open on signal if at least a twenty four hour advance notice is given by calling the number posted at the bridge.

(2) From December 16 through March 31, the draw need not open for the passage of vessel traffic.

Dated: August 26, 2013

V.B. Gifford, Jr.
Captain, U.S. Coast Guard
Acting Commander, First Coast Guard District

[FR Doc. 2013-22268 Filed 09/12/2013 at 8:45 am;

Publication Date: 09/13/2013]